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BEFORE THE ARIZONA CORPORATION COMMISSION

MARC SPITZER

Chairman

JIM IRVIN

Commissioner

WILLIAM A. MUNDELL

Commissioner

JEFF HATCHER

Commissioner

MIKE GLEASON

Commissioner

IN THE MATTER OF THE GENERIC
PROCEEDINGS CONCERNING ELECTRIC
RESTRUCTURING.

DOCKET NO. E-00000-02-0051

IN THE MATTER OF ARIZONA PUBLIC
SERVICE COMPANY'S REQUEST FOR
VARIANCE OF CERTAIN
REQUIREMENTS OF A.A.C. R14-2-1606

DOCKET NO. E-01345-01-0822

IN THE MATTER OF THE GENERIC
PROCEEDINGS CONCERNING THE
ARIZONA INDEPENDENT SCHEDULING
ADMINISTRATOR.

DOCKET NO. E-00000A-01-0630

IN THE MATTER OF TUCSON ELECTRIC
POWER COMPANY'S APPLICATION FOR
A VARIANCE OF CERTAIN ELECTRIC
COMPETITION RULES COMPLIANCE
DATES

DOCKET NO. E-01933A-02-0069

Arizona Corporation Commission

DOCKETED

FEB 10 2003

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HARQUAHALA GENERATING COMPANY LLC'S EXCEPTIONS TO
RECOMMENDED OPINION AND ORDER ON TRACK "B" ISSUES

Pursuant to Arizona Administrative Code ("A.A.C.") R14-3-110(B), Harquahala
Generating Company, L.L.C. ("HGC") hereby files its Exceptions to the Presiding Administrative
Law Judge's ("PALJ") Recommended Opinion and Order ("Recommended Order") on Track "B"
issues in the above-captioned proceeding.

1 HGC believes that the PALJ's Recommended Order resolves the vast majority of the
2 issues raised during the Track B proceedings in the proper manner. As an active participant in the
3 Track B proceedings, HGC believes that the Recommended Order effectively captures the
4 outcome that has been apparent to all participants for months. It reflects compromises hammered
5 out by all of the parties involved, including significant compromises by the merchant generators.
6 In lieu of APS purchasing 100% of its electricity from the competitive wholesale market and at
7 least 50% under a Commission sanctioned competitive bidding program, as A.A.C. R14-2-
8 1606(B) provides, APS will solicit a minimum of 18% in 2003. This amount is less than one half
9 of the electricity production capability of the Harquahala Generating Plant. Notably, there are
10 several other recently constructed plants with similarly large electricity production capability who
11 will undoubtedly bid to APS. Clearly, this is a much slower phase-in of competition than the
12 Commission's Electric Competition Rules call for and than the merchants relied upon in
13 developing their business plans.

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16 With that being said, HGC believes it is a good and fair order. In our exceptions, we
17 outline the changes that we believe will add clarity to certain aspects of the Recommended Order
18 that, as currently proposed, could be open to more than one interpretation or otherwise have the
19 potential of allowing APS or TEP to avoid competitive procurement. Where appropriate, we
20 have suggested additional language that we believe will resolve the uncertainties we have
21 identified herein.
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23 I. CATEGORIES OF PROCUREMENTS

24 The Recommended Order states that the Commission "believe[s] that it would be wise for
25 APS to adopt the practice of using such 'blind' procurement techniques, such as electronic trading
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1 platforms or independent brokers, for all its short term purchases with the exception of emergency
2 purchases. We will require APS to file, for Commission approval, a draft protocol adopting such
3 a practice.” (Recommended Order at p. 59) From this statement, HGC concludes that the
4 Recommended Order has established three general procurement categories: (1) the Track B
5 solicitation; (2) blind procurement for short-term purchases; and (3) emergency purchases. To
6 avoid any uncertainties in the types of procurements subject to competition pursuant to the
7 Commission’s Order, HGC suggests adding the following language on page 59, line 24:

9 Therefore, 100% of APS and TEP future capacity and energy
10 procurements will fall into one of the following three categories:
11 (1) Track B or its predecessor procurements; (2) blind competitive
12 procurements; or (3) emergency purchases. The blind competitive
13 procurement of short-term energy shall commence with power
14 deliveries effective July 1, 2003 and after.

15 Inserting this language will prevent APS or TEP from potentially finding a loophole in the
16 Recommended Order through which they can avoid competitive procurement, except in
17 emergency circumstances.

18 **II. GUIDANCE ON MAKING ECONOMIC COMPARISONS**

19 The Recommended Order requires APS and TEP to competitively solicit needs not
20 economically served by existing utility owned generating capacity or through existing contracts.
21 Id. at pp. 14-15) In addition, the Recommended Order provides that where bids offering lower or
22 comparably-priced, more environmentally sensitive generation would serve APS and TEP
23 customers more economically than existing assets, APS and TEP should make procurements
24 accordingly. (Id. at p. 15) HGC overwhelmingly supports these requirements, and we believe
25 that the Recommended Order can be strengthened by providing additional guidance on how such
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1 economic comparisons between bids and existing generation should occur. To provide such
2 guidance, HGC suggests adding the following language:

3 The independent monitor shall ensure that APS and TEP rely upon
4 cost and operating data for their existing generation that properly
5 reflects their historical actual costs, actual operating performance
6 and the costs of these units included in rate recovery. As
7 appropriate and wherever possible, bids and existing generation
8 shall use identical fuel price escalation assumptions.

9 HGC's proposal will limit the potential for understating the costs of
10 existing units in APS or TEP's economic and technical analysis of offered
11 capacity or energy from existing assets.

12 **III. FINANCIAL IMPACTS OF COMPETITIVE PROCUREMENT**

13 The Recommended Order provides "that since APS will make the decision as to how
14 much competitive power to procure, beyond its requirements that cannot be produced from its
15 own existing assets or contracts, any financial impact of such procurement is within APS'
16 control." (Id.) HGC believes that this language should be clarified in two respects. First, the
17 phrase "any financial impact" should state "any **direct** financial impact." Clearly, there is
18 currently a surplus of generation in Arizona, and not all of the bidders will be successful. The
19 losers will likely have a negative financial impact whether it is HGC or PWEC or other parties.
20 However, if PWEC's bid is rejected, the impact of that loss should not be a basis for APS setting
21 aside the winning contracts. HGC believes that limiting this language to "any **direct** financial
22 impact" will prevent an impact at PWEC from becoming a "financial impact" to APS within the
23 context of the Commission's order.
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1 Second, not all of the direct financial impacts of the solicitation are within APS' control.
2 For example, if certain existing APS generation is displaced year round as a result of the Track B
3 outcome, it is likely that APS will feel uncertain about continued rate based recovery even if the
4 units are largely already depreciated. Again, to address this uncertainty as becoming a basis for
5 setting aside winning contracts, HGC suggests including the following language in an attempt to
6 mitigate direct financial impacts:
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8 If it is determined that a direct financial impact will result from a
9 procurement, prior to rejecting any otherwise winning bid(s), the
10 utility shall file with the Commission a specific financial analysis
11 of the direct financial impact and a request for Commission
12 approval of actions the utility could undertake to mitigate the direct
13 financial impact and thus enable utility to contract with the
14 successful bidder(s).

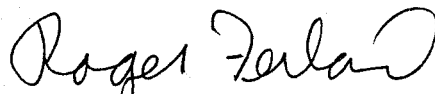
13 IV. CONCLUSION

14 HGC appreciates the opportunity to comment on the PALJ's Recommended Order and
15 respectfully requests that the Commission amend the Recommended Opinion and Order to reflect
16 HGC's concerns and recommendations.

17 RESPECTFULLY SUBMITTED this 10th day of February, 2003.

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1 **ORIGINAL** and **21 COPIES** filed February 10, 2003, with:

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14 E-01933A-02-0069; and E-01933A-98-0471

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